

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES C. KISTNER,

Plaintiff,

vs.

Civil No.: 18-CV-00402

LAUREN McDERMOTT
JENNY VELEZ
KARL SCHULTZ, and
KYLE MORIARITY, *et al.*,

Defendants.

**NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST
DEFENDANTS McDERMOTT, VELEZ, SCHULTZ, AND MORIARITY**

NATURE OF ACTION: Violation of Civil Rights.

MOVING PARTY: Plaintiff, James C. Kistner.

DATE AND TIME: To be determined by the Court.

PLACE: Hon. Jeremiah J. McCarthy
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

SUPPORTING PAPERS: Declaration of R. Antony Rupp III, Esq., sworn to on April 28, 2021, with exhibits; Declaration of Dr. Jennifer L. Yaek, PhD, P.E., sworn to on April 27, 2021, with exhibits; Local Rule 56 Statement of Material Facts, dated April 28, 2021; and accompanying memorandum of law.

ANSWERING PAPERS: Pursuant to Local Rule 7(b), unless the Court issues an order otherwise.

REPLY PAPERS: Plaintiff intends to submit reply papers.

RELIEF REQUESTED:

Pursuant to Rule 56, Plaintiff seeks an order granting summary judgment on his claims for false arrest, false imprisonment, and malicious prosecution, under Federal and New York State law, in addition to an order dismissing the defense of qualified immunity for Defendants McDermott, Velez, Schultz, and Moriarity.

GROUNDS FOR RELIEF:

Federal Rule of Civil Procedure 56, case law, and other authorities cited in the attached memorandum of law.

ORAL ARGUMENT:

Requested.

Dated: April 28, 2021
Buffalo, New York

RUPP BAASE PFALZGRAF CUNNINGHAM LLC
Attorneys for Plaintiff

By: *s/R. Anthony Rupp III*
R. Anthony Rupp III
Jill L. Yonkers
Chad A. Davenport
1600 Liberty Building, 424 Main Street
Buffalo, New York 14202
(716) 854-3400

TO: CITY OF BUFFALO

Corporation Counsel
Attorneys for Defendants
Maeve E. Huggins, Esq.
65 Niagara Square, 11th Floor
Buffalo, New York 14202
(716) 851-4317